December Term 1844.

afterwards to wit, on the twelfth day of February eighteen hundred and twenty four the said John Denn Lessee as aforesaid by his attorney aforesaid filed in Court here the following affidavit to wit, Sarah R. Merryman Lessee vs Isaac I Smith action of ejectment in Baltimore County Court Sarah Rogers Merryman Lessor of the plaintiff in this cause make oath on the Holy Evangely of Almighty God that at the time of issuing the declaration in this cause and before the time of serving a copy of said declaration on the tenant in possession of the premises in said declaration mentioned there was and now is due and in arrear to the said Sarah as Landlord of said premises the sum of three hundred dollars for three years rent of said premises and the further sum of forty nine dollars and fifty cents a balance due and in arrear for one other year's rent thereof. And this deponent further saith that at the time of serving the copy of said declaration on the tenant in possession of the premises in said declaration mentioned she this deponent was and now is landlord of said premises and the said Isaac I Smith was the tenant in possession thereof and that she then had and now hath power to re-enter on said premises for non-payment of the said rent - And this deponent further saith that at the time and before said ejectment was served no sufficient distress was to be found on said premises and countervailing the arrears of rent then due to this deponent Sworn before me the subscriber a Justice of the peace for the City of Baltimore in Baltimore County this third day of February in the year 1824 - Wm Y Purviance -

John Denn, Lessee of Sarah R. Merryman vs. Richard Penn casual ejector Isaac I Smith, tenant - And afterwards to wit, on the twelfth day of February in the year eighteen hundred and twenty four the said John Denn Lessee as aforesaid by Samuel I. Donaldson his attorney prosecuted and sued forth out of the County Court here of and upon the Judgment aforesaid the writ of the State of Maryland of Habere facias possessionem in form following to wit:

Maryland Sct - The State of Maryland, To the Sheriff of Baltimore County Greeting - Whereas at a County Court begun and held at the Court House in the City of Baltimore in and for the County aforesaid on the fourth Monday in March in the year of our Lord one thousand eight hundred and twenty three a certain John Denn lessee of a certain Sarah Rogers Merryman by Judgment of the said Court recovered against a certain Richard Penn late of Baltimore County his term yet to come and unexpired of and in all that Lot or parcel of ground situate and being in the City of Baltimore in Baltimore County aforesaid beginning for the same on the east side of South (now called Belvidere) Street South three and three quarter degrees east seventy six feet three inches from the South-east intersection of South and Water Streets and running thence bounding on South Street South three and three quarter degrees east twenty six feet nine inches thence north eighty six and a quarter degrees east seventy nine feet six inches to the division line between Daniel Bowly and John McClure, thence bounding on said line north twenty six feet nine inches and thence by a straight line to the beginning with the appurtenances which the said Sarah R. Merryman on the first day of January in the year of our Lord one thousand eight hundred and sixteen had demised to the said Richard Penn, for a term of years which is not yet expired - To hold from the thirty first day of December then

December Term 1844.

last past for and during and until the full end and term of fifteen years from thence next ensuing and fully to be complete and ended whereof the said Richard Penn is convict as appears of record. Therefore you are hereby commanded that without delay you cause the said John Denn Lessee of the said Sarah Rogers Merryman to have his possession of his term aforesaid yet to come and unexpired of and in the ___ and premises aforesaid with the appurtenances and in what manner you shall execute this writ make appear to the said County Court to be held at the Court House in the City of Baltimore on the fourth Monday in March next, and have you then and there this writ, Witness the Honorable Stevenson Archer Chief Judge of our said Court the 11th day of February in the year of our Lord eighteen hundred and twenty four Issued the 12th day of February 1824 - Wm Gibson, Clk.

At which said fourth Monday in March to wit, in the year last aforesaid being the return day of the aforegoing writ comes into the County Court here the said John Denn Lessee as aforesaid by his attorney aforesaid and the Sheriff of Baltimore County aforesaid to whom the said writ was in form aforesaid directed makes return thereof to Court here thus endorsed to wit: Possession given on the 24th day of February 1824 - S. C. Leakin, Shff.

Test, Wm Gibson, Clk.

In Testimony that the aforegoing is a true copy taken from Judicial Record No. 3 folio 423 &c. one of the Records of Baltimore County Court - I hereto subscribe my name and affix the Seal of Baltimore County Court this Seventh day of October eighteen hundred and forty two - Tho. Kell Clk. (L.S.)

And also proved the writ of possession and further offered evidence that the said Sarah mentioned in said recovery in ejectment intermarried before the institution of this suit with the defendant Ashton Alexander and that said Sarah and said Sarah and Ashton have been in possession of the premises declared for in this case ever since possession was delivered under the writ of possession issued on said Judgment in ejectment and that September Term 1823 continued to the fourth Monday of March 1824. The plaintiff further offered evidence that the Court was not in Session on the day called the affidavit stated in the Record was filed and when the execution issued and the defendant offered evidence that the terms of Baltimore County Court have always been adjourned over from the end of one term to the beginning of another - And the defendant offered evidence to the Court by Samuel I. Donaldson, Esquire that he has been engaged in the practice of the law for forty years and that he has brought suits of ejectment under clause of re-entry for non-payment of rent under the Statute of 4 George 2; that he has always understood the practice to be that it was only necessary to file the affidavit under the statute at some time before the issuing of the writ of possession and that he has acted always according to that practice. Cross examined he says that he has no recollection of filing any other affidavit in the case of Merryman's Lessee vs. Smith except the one in the Record which is in deponents hand writing and that he was sole counsel of the plaintiff in the cause - and the defendant further as aforesaid offered by Thomas Kell Esquire that he has been in the practice of the law and was